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201 7590 05/03/2010

UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG West S. Wing
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

SOROUGH, LAYLA

ART UNIT

PAPER NUMBER

1627

DATE MAILED: 05/03/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,292

06/01/2006

Maria Teresa Belmar

T7105(C)

3161

TITLE OF INVENTION: BASE COMPOSITION FOR COSMETIC PRODUCTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	08/03/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

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B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,292	06/01/2006	Maria Teresa Belmar	T7105(C)	3161

TITLE OF INVENTION: BASE COMPOSITION FOR COSMETIC PRODUCTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	08/03/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
SOROUGH, LAYLA	1627	424-401000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

SOROUSH, LAYLA

ART UNIT

PAPER NUMBER

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DATE MAILED: 05/03/2010

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 177 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 177 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/581,292	BELMAR ET AL.	
	Examiner	Art Unit	
	LAYLA SOROUGH	1627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief filed 1/19/10.
2. ☒ The allowed claim(s) is/are 1-5,7 and 9-18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>10/6/03</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date ____. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other ____. |
|---|---|

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael P. Aronson on April 9, 2010. This application has been amended as follows:

Delete Claim 6.

Delete Claim 8.

The following is an examiner's statement of reasons for allowance:

The composition and method as claimed are found to be patentable over the prior art because the prior art does not teach or fairly suggest the composition comprising a cosmetic composition comprising (i) less than 10 wt% water (ii) fatty acid (iii) from 15 to 70 wt% of a structuring agent selected from the group consisting of glycerine monostearate, glycol monostearate and a combination thereof, and (iv) from 2 to 15 wt % fatty acid neutralized by an inorganic base, (v) an optional emulsifying agent/surfactant, said emulsifying agent/surfactant consisting of cetyl alcohol, wherein the fatty acid has a chain length of from 14 to 22 carbon atoms, and wherein the cosmetic composition is suitable for forming a skin cream or lotion on hydration when the composition is mixed with water at a temperature of from 0 to 35°C at a weight ratio of from 1:3 to 1:20.

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The closest prior art of record, namely Farrell et al. (US 6,630,432) and Crookham et al. (US 6,576,228). Farrell et al. teach soap bars comprising 7-20% of water; 40-95% of C₁₂-C₂₄ fatty acid neutralized by an inorganic base such as NaOH (i.e. fatty acid soap); 0-15% of monoglyceride (e.g. glycerin monostearate or monolaurate); and 0-15% of free fatty acid. See Abstract; col. 2, lines 28-54; col. 3, lines 51-65; col. 4, lines 25-51. The soap bars of Farrell et al. contain additional functional ingredients such as alpha-hydroxy acid salts, which possess humectant properties. See col. 1, lines 15-22; col. 4, lines 6-22. The bars of Farrell et al. are hydrated with water to form a cleansing composition, which usually takes place at room temperature. Crookham et al. teach personal wash compositions in the form of bars which deposit high levels of sunscreens on the skin, such compositions containing 1-15% of water; 20-85% of a fatty acid soap and 0-15% of free fatty acid; 0-40% of glycerin monostearate; and other cosmetic additives. See Abstract; col. 3, lines 20-52; col. 5, lines 10-20; col. 8, lines 54-67; col. 9, lines 55-58; col. 10, lines 46-48. The bars of Crookham et al. are hydrated with water to form a wash composition, which usually takes place at room temperature. More specifically, the prior art teaches the same hydrating method as claimed to form a liquid wash, hence, a cream or lotion wash will be formed upon mixing an aqueous base at a temperature of below 80 degrees C. The surfactants include palmitic-stearic acid (col 13 table 1), which reads on claim 13. Both Farrell et al. and Crookham et al. do not teach the claimed concentration of the neutralized fatty acid or ratio of water.

Firstly, Applicant has limited the claims so that the optional emulsifying agent/surfactant is solely cetyl alcohol.

Further, all the soap bar compositions disclosed by Farrell in Examples 1-11 contain 67% to 77% neutralized fatty acid derived from a combination of tallow and nut oil (table spanning columns 5-6). Based on comparative results presented in the DECLARATION dated December 5, 2008, from Dr. Shiping Zhu, Applicants' have argued that a person of ordinary skill in the art would not have been motivated to create a soap bar having 2 to 15 wt % of a fatty acid neutralized by an inorganic base wherein the fatty acid has a chainlength of 4 to 22 carbon atoms and an optional surfactant consisting of cetyl alcohol because such a composition would have generated virtually no lather and thus, be unsuitable for the purpose intended by Farrell et al. The influence of wt% neutralized fatty acid on lather/foam can be seen from a comparison of Mixtures labeled 1A, 2A, and 3-5 in Table 2 of the DECLARATION. These compositions contained a tallow/nut oil soap as the neutralized fatty acid which is the type specifically used by Farrell et al in Examples 1-11. It can be seen from Table 2 that a neutralized fatty acid concentration of less than 20% produced at most a trace amount of lather and had very low foaming potential (compare Mixtures 1A, 2A and 3 with Mixtures 4-5).

The Influence of chain length of the neutralized fatty acid can be observed by a comparison of Mixtures labeled 1 and 2 with 1A and 2A and 4-5 in Table 2 of the DECLARATION. With reference to Tables 1 and 2 of the DECLARATION, mixtures 1 and 2 are composed of a neutralized fatty acid which do not contain any C12 fatty acid while mixtures 1A, 2A and 3-5 include a C12 soap (potassium laurate). Mixtures 1 and 2 produce absolutely no foam or lather when diluted with water. In contrast mixtures 1A and 2A produce some foam and a trace of lather albeit far lower than at the

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concentration taught by Farrell. (Compare the foam and lather results of Mixtures 1 and 2 with Mixtures 1A, 2A and 3-5).

In contrast to Crookham et al, the invention herein specifically restricts the neutralized fatty to a chainlength of 14-22 carbon atoms, a neutralized fatty acid concentration of 2-15 wt% and limit the optional surfactant/emulsifier to cetyl alcohol. As clearly demonstrated by the results in the DECLARATION, an artisan who would have made soap bars or liquids utilizing these parameters would have produced compositions which would have been perceived by the consumer to have virtually no lather in use which is directly opposite to the goals of Crookham et al. Moreover, the "formulation rules" taught by Crookham et al (column 4, lines 25-42) would have specifically taught the artisan that the bar composition would have had to include an additional surfactant which must be a synthetic anionic surfactant, when the fatty acid soap concentration in the composition is between 2-15 wt% alone or in combination with a surfactant consisting of cetyl alcohol. It was additionally demonstrated in the DECLARATION that dilutions of Mixtures 1 and 2 in which the neutralized fatty acid level was 15% or less and which fell into the claimed carbon chainlength exhibited the look and feel of a skin lotion or skin cream when rubbed on the skin. In contrast, dilutions with a neutralized fatty acid chainlengths and levels outside the scope of the current invention (Mixtures 3-5) were distinctly different and formed increasingly sticky, viscoelastic stringy foams when rubbed on the skin. These results demonstrate the criticality of the limitation on neutralized fatty acid concentration and chain length to the claimed invention.

Accordingly, as the prior art does not teach or suggest the composition or methods as claimed, the claims are found to patentable over the prior art and Declaration.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Layla Soroush whose telephone number is (571)272-5008. The examiner can normally be reached on 8:30a.m.-5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on (571)272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SREENI PADMANABHAN/

Supervisory Patent Examiner, Art Unit 1627